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S/WCI WILLIAMSON, LAVINE; L/EUR JOHNSON; INR MORIN
DEPT PLEASE PASS TO NSC BRAUN

E.O. 12958: N/A

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SUBJECT: SETBACK IN GLAVAS INVESTIGATION

REF: ZAGREB 1405 AND PREVIOUS

¶1. SUMMARY AND COMMENT: Zagreb County Court investigative judge Zdenko Posavec decided December 2 to release MP Branimir Glavas from detention and suspend further investigative hearings into his suspected involvement in war crimes against Serb civilians in 1991 due to his deteriorated health after a 37-day hunger strike (reftels). According to the court, the investigation (the equivalent of a U.S. grand jury) will resume when Glavas' health improves enough for him to follow the proceedings. The press speculates this could take a month or more. The office of Chief State Prosecutor Mladen Bajic told Post he plans to appeal as soon as he receives the text of the decision. He will also request to see a medical report attesting to Glavas' condition. A panel of judges from the Zagreb court will likely rule on a Bajic appeal this week.

¶2. While Glavas supporters celebrated, legal experts and the media attacked the decision to release him. One editorialist declared, "The rule of law has died in Croatia." Top judicial experts said there appears to be no legal basis for the decision of Judge Posavec, who has drawn criticism throughout the so-called "Garage" case. Glavas has succeeded in manipulating at least part of the Croatian judiciary this time, but the appeals panel may yet pass this test of judicial credibility. END SUMMARY AND COMMENT.

GoC OFFICIALLY SILENT, UNOFFICIALLY OUTRAGED

¶3. PM Sanader and his cabinet have made no public comment on the Posavec ruling but must be frustrated after the pitched political battle over stripping Glavas of his parliamentary immunity from detention. Papers quoted unnamed government sources expressing grave concern and fear that the rule of law is under threat.

¶4. Bajic has also avoided public comment, waiting until he files his appeal. He was reportedly more upset by the suspension of investigative hearings than by Glavas' release, because he would have been able to file an indictment after the testimony of only a few more witnesses. His office told Post that Judge Posavec had many other options, such as ordering the prison hospital to take all necessary medical measures to protect Glavas' life (including forced intravenous feeding) and continuing hearings in Glavas' absence. Under Croatian law, detention should end only when the grounds for detention cease to exist. As Glavas was under detention based on the gravity of the criminal accusations, the grounds remain unchanged.

¶5. Bajic had already demonstrated his frustration with Posavec when he filed the second investigation into Glavas'

wartime activities, the so-called "Cello-tape" case, in Osijek rather than Zagreb. This move came after Posavec repeatedly refused to order Glavas' detention despite evidence of witness intimidation. Glavas' defense attorneys told the press they will file a motion in Osijek today to suspend the second investigation as well based on the defendant's health following his hunger strike.

BRADTKE